

REMARKS

Claims 1, 11, 15, 16, 28, 45-47, and 49 are amended. Claim 51 is added. Claims 31-41 are withdrawn.

Excluding the withdrawn claims, Claims 1-30 and 42-51 are pending are pending in the application.

Election

Applicant affirms the provisional election made on January 6, 2005 of the claims represented by Group I, i.e. Claims 1-30 and 42-50.

Claim Objections

The Examiner objected to Claims 15, 16, 45-47, and 49 because the claims to which these dependent claims refer are incorrectly identified. Applicant thanks the Examiner for pointing out these inconsistencies. Claims 15, 16, 45-47, and 49 have accordingly been amended to correct this inadvertent mistake.

Claim Rejections – 35 USC §112

Claim 27 was rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The Office Action stated:

Claim 27 recites that the pump is “composed of a plurality of pilings aligned by at least one buoyancy chamber ring”, it is unclear how a single buoyancy chamber ring can be used when the specification discloses that the buoyancy chamber is formed of a plurality of buoyancy chamber rings and a plurality of pilings (pg. 63, lines 3-18).

Applicant traverses the rejection on the grounds that Claim 27, as originally presented, is definite and affirmatively points out and distinctly claims the subject matter that Applicant regards as part of the present invention. Although the embodiment described at page 63, lines 3-

18 of the specification mentions a plurality of buoyancy chamber rings, Applicant points out that the scope of the claims may be appropriately defined by the Applicant, and Applicant should not be required to present claims that match the scope of one particular embodiment described in the specification.

Applicant further submits that Claim 27 is definite even when the claim is construed to include only a single buoyancy chamber ring. As an example, Applicant points to the specification at page 63, lines 3-18, which states that the pilings may be mounted into a base. In this particular exemplary embodiment, the use of one buoyancy chamber ring could be used to align the pilings. Applicant points out, however, that Claim 27 is not necessarily limited by this exemplary embodiment, and alignment using a single buoyancy chamber ring may not necessarily require a base.

Applicant respectfully requests that the rejection of Claim 27 under 35 U.S.C. § 112, second paragraph be withdrawn.

Claim Rejections – 35 USC §102

Claims 1-10 were rejected under 35 USC §102(a) as being anticipated by U.S. Patent No. 6,388,342 to Vetterick, et al. The Office Action stated:

Vetterick et al. discloses a method for generating electricity including converting wave motion into mechanical power, driving a fluid matter as a function of the mechanical power to a reservoir, flowing the fluid matter from the reservoir, and converting at least a portion of a kinetic energy of the flowing fluid matter into electrical energy. Wherein converting wave motion into mechanical power includes moving a member in a first direction and a second direction in response to the wave motion moving the member in the first and second directions, respectively, and driving the fluid matter further includes intaking the fluid matter in response to the wave motion moving the member in the first direction, and exhausting the fluid matter in response to the wave motion moving the member in the second direction and forcing fluid matter to an increased elevation to the reservoir. The method further includes storing the fluid matter in the reservoir, increasing pressure of the fluid matter in the reservoir, and applying the electrical energy onto a power grid. Flowing the fluid matter includes gravitating the fluid

matter for converting the kinetic energy of the flowing fluid matter into electrical energy, utilizing pressure to flow the fluid matter, and converting the flowing fluid matter includes driving a turbine utilizing the flowing fluid matter.

With respect to amended claim 1, Applicant respectfully submits that Vetterick fails to disclose each and every element of the claim. Since Claims 2-10 depend from Claim 1, Claims 2-10 are also allowable over Vetterick. Applicant respectfully requests that the rejections of Claims 1-10 under 35 U.S.C. § 102 be withdrawn.

Claims 11, 13-19, 21, 22, 25, 28-30, 42, 43, 45, 46, 49, and 50 were rejected under 35 USC §102(a) as being anticipated by U.S. Patent No. 6,388,342 to Vetterick, et al. The Office Action stated:

Vetterick et al. discloses a system for generating electricity having a plurality of pumps (12) located in a body of water (68), arranged in a grid, including input and output ports, an outlet line coupled to the pump output port, a reservoir (72), including an input feed port (74) and an output feed port (76), and a turbine (30). Wherein the reservoir is on land or over the water, and the pump is a buoyancy pump. The system further includes power lines connected to the turbine, and is scalable.

With respect to amended Claims 11 and 28, Applicant respectfully submits that Vetterick fails to disclose each and every element of the claims. Since Claims 13-19, 21, 22, 25, 29, and 30 depend from Claims 11 and 28, the dependent claims are also allowable over Vetterick. Applicant respectfully requests that the rejection of Claims 11, 13-19, 21, 22, 25, and 28-30 under 35 U.S.C. § 102 be withdrawn.

With respect to Claim 42, contrary to the Examiner's statement that all elements are disclosed in Vetterick, the rejection is unsupported by the art and should be withdrawn. MPEP §2131 provides that "[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described in a single prior art reference. (citing *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)). The MPEP further provides that "[t]he identical invention must be shown in as

complete detail as contained in the . . . claim.” (citing *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989)). The Office Action fails to show that each and every element of Claim 42 is found in Vetterick. Applicant respectfully requests that the rejection of Claim 42, as well that of dependent Claims 43, 45, 46, 49, and 50, under 35 U.S.C. § 102 be withdrawn.

Claim Rejections – 35 USC §103

Claim 12, 23, 24, 26, 44, 47, and 48 were rejected under 35 USC §103(a) as being unpatentable over U.S. Patent No. 6,388,342 to Vetterick in view of U.S. Patent No. 6,647,716 to Boyd. The Office Action stated:

Vetterick et al. discloses a system for generating electricity as described above in claims 11, 22, 42, and 43, respectively, but does not specifically teach that the pump is portable, a specific layout of the pump grid, or an automatically adjustable element. Boyd discloses a system for generating electricity from wave motion using a buoyancy pump that is portable, has the pumps arranged in a grid positionally offset by a row along consecutive columns, and an automatically adjustable element for altering operation of the pump (Fig. 2). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system of Vetterick et al. by having the pumps be portable, having the pumps arranged in a grid positionally offset by a row along consecutive columns, and having an automatically adjustable element for altering operation of the pump as taught by Boyd for the purpose of being able to optimize operation of the system based on wave activity.

As presented previously, Applicant submits that amended Claim 11 and Claim 42 are in condition for allowance. Since Claims 12, 23, 24, 26, 44, 47, and 48 depend, at least indirectly, from Claims 11 and 42, it follows that Claims 12, 23, 24, 26, 44, 47, and 48 are allowable over Vetterick in view of Boyd. Applicant respectfully requests that the rejection of Claims 12, 23, 24, 26, 44, 47, and 48 under 35 U.S.C. § 103 be withdrawn.

Claim 20 was rejected under 35 USC §103(a) as being unpatentable over U.S. Patent No. 6,388,342 to Vetterick. The Office Action stated:

Vetterick et al. disclose a system for generating electricity as described above in claim 19, but does not specifically teach that the reservoir includes a fish hatchery.

Since applicant has not disclosed that having the reservoir serve as a fish hatchery solves any stated problem or is for any particular purpose above the fact that it is a possible secondary use for the reservoir and it appears that the reservoir of Vetterick et al. would perform equally well with the secondary function of the reservoir being a fish hatchery as claimed by applicant, it would have been an obvious matter of design choice to modify the reservoir of Vetterick et al. by utilizing the reservoir as a fish hatchery as claimed for the purpose of hatching fish eggs.


As presented previously, amended Claim 11 is allowable over Vetterick because Vetterick fails to teach each and every element of the claim. Since Claim 20 depends from Claim 11, it follows that Claim 20 is allowable over Vetterick. Applicant respectfully requests that the rejection of Claim 20 under 35 U.S.C. § 103 be withdrawn.

CONCLUSION

Applicant respectfully submits that the pending Claims 1-30 and 42-51 are in condition for allowance and such a Notice is respectfully requested. The Examiner is invited to call the undersigned at the below-listed telephone number if, in the opinion of the Examiner, such a telephone conference would expedite or aid the prosecution and examination of this application.

Respectfully submitted,

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